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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,787	02/14/2002	David P. Lobeck	DL01	2195
27797	7590	12/09/2005	EXAMINER	
RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072			ART UNIT	PAPER NUMBER

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/683,787	Applicant(s) LOBECK, DAVID P.	
	Examiner Julie K. Brockett	Art Unit 3713	

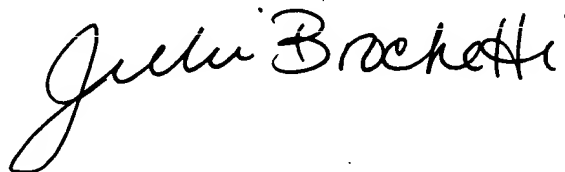
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 20 April 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

See Continuation Sheet.



Julie K Brockett
Primary Examiner
Art Unit: 3713

Continuation of 10. Other (including any explanation in support of the above items): With regards to item 4, Applicant has only provided a summary claims 1, 13, 18, 4 and 13-22 but other claims are also argued separately, for example claims (5,6,15,16), (9,14,19) etc. All claims that are argued separately need to be described in the summary of the claimed subject matter. Each ground of rejection to be reviewed can be considered to be separately arguable unless Applicant groups the claims and arguments.

With regards to item 6, the argument section does not provide proper headings for each argument presented, while Applicant has labeled each argument as I, II, III, etc. A heading above the numbers is proper in order to distinguish each argument. The Examiner suggests boldfacing the headings so as to make them clearly identifiable. Claims that are argued separately need to be placed under a subheading. So claims 4 and 13-22 should be under a subheading under the first argument section. Please refer to MPEP 1205.02 for clarification of what is required.

With regards to items 8 and 9, Applicant must provide an evidence appendix and a related proceedings appendix each beginning on a new page. If there are no appendices then the word "None" should appear below the heading. Please see MPEP 1205.02 for clarification. .